IN THE COURT OF APPEAL

OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. DOUGLAS HOWARD, Defendant and Appellant.	2d Crim. No. 23974 (Super.Ct. No. A 289755)

APPEAL from a judgment (order setting fees under section 987.8 of the Penal Code) of the Superior Court of Los Angeles County. Paul G. Breckenridge, Jr., Judge. Affirmed.

Richard S. Buckley, Public Defender, and Harold E. Shabo, Robert T. Jacobs and Herbert M. Barish, Deputy Public Defenders, for Defendant and Appellant.

Evelle J. Younger, Attorney General, Jack R. Winkler, Chief Assistant

Attorney General, S. Clark Moore, Assistant Attorney General, and Howard J. Schwab and Russell Iungerich, Deputy Attorneys General, for Plaintiff and Respondent.

BACKGROUND

Defendant-appellant Douglas Howard (hereinafter HOWARD) was charged by information with two counts of assault with a deadly weapon in violation of Penal Code section 245, subdivision (a). An amendment to the information alleged that the defendant had previously been convicted of and served time in the state prison for violation of section 11530 of the Health and Safety Code.

At his arraignment on December 14, 1972, defendant HOWARD had a public defender appointed and the minute order of that date reflects: "Defendant is personally advised and put on notice of financial responsibility under 987.8 Penal Code."

The defendant pleaded not guilty and denied his prior.

Defendant HOWARD was acquitted by the jury on June 14, 1973. The minute order of that date contains the following: ". . . Defendant files waiver of hearing on determination of his present ability to reimburse the County for the costs of legal services provided. Court finds that the defendant has the present ability to reimburse the County in the amount of $500.00 payable $25.00 or more per month, commencing August 1, 1973. Order setting fees under Section 987.8 Penal Code is filed . . . ."

ISSUES

On appeal defendant HOWARD contends that section 987.8 of the Penal Code (1) places an unconstitutional burden on the right to counsel in criminal proceedings; (2) places an impermissible burden on the exercise of a defendant's right to a jury trial; (3) acts as a deterrent to effective representation by counsel; (4) requiring acquitted defendants to reimburse the county results in a denial of due process; (5) operates to deprive a defendant of

property without due process of law; (6) is unconstitutional on the ground it does not permit trial by jury on the issue of the amount owed; and (7) denies indigents equal protection of the laws.

DISCUSSION

All of the above issues have been held non-meritorious by the California Supreme Court in People v. Amor, 12 Cal.3d 20 [Cal.Rptr. , P.2d].

CONCLUSION

Order affirmed.

NOT FOR PUBLICATION

HANSON, J.

We concur:

WOOD, P.J.

THOMPSON, J.

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